

PETER M. LEVINE
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December 9, 2014

ECF System

Hon. Gregory H. Woods
District Court Judge
United States Courthouse
500 Pearl Street, Room 2260
New York, New York 10007

Re: Ball v. Soundview Composite, Ltd.
14-cv-8615-GHW / File No. 242.03

Dear Judge Woods:

I am the former counsel to Soundview Composite, Ltd., the sole defendant in an adversary proceeding pending before Bankruptcy Judge Robert E. Gerber, *Ball v. Soundview Composite, Ltd.*, Adv. P. No. 14-1923-reg. I was relieved as Composite's counsel pursuant to an order made on the record by Judge Gerber at a conference notices for and held September 3, 2014. The September 3 order was reiterated in a written order dated September 23, 2014. Both orders were issued to compel compliance with an order Judge Gerber made on the record at the conclusion of a conference held August 8, 2014.

Though he is not a party in the adversary proceeding, one of Composite's managers, Alphonse Fletcher, Jr., has taken an appeal from the September 23, 2014 order. Composite has not taken an appeal. In his brief, Mr. Fletcher takes issue with several rulings made by Judge Gerber, reserving special ire for the amount of legal fees Composite had to pay to me pursuant to the August 8 order and for the findings concerning the quality of my representation of Composite. Though Mr. Fletcher does not explain how he is personally aggrieved by the rulings pertaining to the relationship between Composite and me or specify the exact relief he ultimately seeks beyond a reversal of the September 23 order (except the decree relieving me as counsel), it is clear from his brief that he does seek relief against me.

As a target of Mr. Fletcher's appeal, I must have the opportunity to be heard, but Mr. Fletcher is attempting to prevent me from vindicating the rulings made by Judge Gerber. Mr. Fletcher filed his brief December 1, 2014. I was not served. I did not learn of the filing until December 3, when I received a courtesy copy from William J. Hine, of the Jones Day firm, counsel for the plaintiff-appellee, Corrine Ball. I cannot fathom how Mr. Fletcher and his counsel could have possibly believed I was not an interested party entitled to be heard on the appeal.

PETER M. LEVINE
ATTORNEY AT LAW

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Mr. Fletcher's procedural gamesmanship should not be allowed to pass without consequence. By order dated November 12, 2014, Your Honor set December 1 as the deadline for Mr. Fletcher to file his brief. He missed the deadline by filing a brief without proper notice to all interested parties. Because he failed to timely perfect his appeal, the appeal should be dismissed.

If the appeal is allowed to proceed, then I have the right to file a brief and be heard. I request a deadline of January 6, 2015 to file my brief. This two-week extension from the current December 22 deadline established by the November 12 order is necessary because I received Mr. Fletcher's brief late and because I am moving my office December 19. So that Mr. Fletcher's counsel does not have to write two reply briefs, I request that the deadline for the Trustee to file her answering brief also be January 6. Of course, Mr. Fletcher's counsel should have the same two weeks as currently provided to file a reply brief. I therefore request that the deadline for the reply brief be January 20.

Mr. Hine, on behalf of the Trustee, consents to my participation in the appeal and this proposed briefing schedule.

To resolve the problems created by Mr. Fletcher's attempt to pursue his appeal by stealth, I presented to his counsel, Robert Knuts of Sher Tremonte LLP, a stipulation providing for me to participate in the appeal on equal footing with the other parties and adjusting the briefing schedule in the same manner described in this letter. I signed the stipulation on my own behalf and on behalf of Mr. Hine (with his permission). I asked Mr. Knuts for a countersignature so I could present the stipulation to Your Honor for a memo endorsement. It took Mr. Knuts just seven minutes to say no, as shown by the attached e-mail exchange.

If allowed to proceed, this appeal should be resolved through a full vetting of the issues by all interested parties, not through advantage gained by sharp practice. I request Your Honor approve the procedural path I have proposed in this letter.

Very truly yours,



cc (via e-mail w/encl):
William J. Hine, Esq.
Robert Knuts, Esq.

/mm

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December 8, 2014

e-mail / rknuts@shertremonte.com

Robert Knuts, Esq.
Sher Tremonte LLP
80 Broad Street, Suite 1301
New York, New York 10004

Re: **Ball v. Soundview Composite Ltd.**
14-cv-8615-GHW / File No. 242.03

Counselor:

You certainly have an acute sense of irony. You filed a brief with the argument that your client did not receive due process; yet you neglected to serve the brief upon me, even though almost all the relief sought by the appeal is against me. How could you have possibly believed that I was not an interested party entitled to be heard?

Fortunately, Bill Hine informed me of the filing and provided me with a courtesy copy of your brief on Wednesday, December 3.

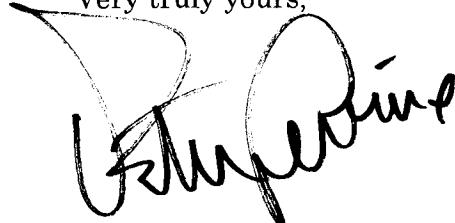
A strong argument can be made that, by failing to serve all interested parties by the filing deadline, you failed to timely perfect the appeal, and therefore the appeal should be dismissed.

I have formulated a solution to the problems you have created. We can all stipulate that I will be joined as a party to the appeal with all the rights of the other parties to file a brief and be heard. Bill Hine has agreed to this. He has also agreed to a deadline of January 6, 2015 for my brief. This two-week extension from the current December 22 deadline is necessary because I received your brief late and I am moving my office on December 19. So that you do not have to write two reply briefs, it would make sense for the Trustee to file her answering brief on January 6 as well. Since you should have the same two-weeks as currently provided to file a reply brief, the deadline for that document can be January 20.

I have prepared a stipulation embodying all of these agreements. I have signed it, and Bill Hine has consented to my signing his name.. If you are in agreement, countersign it and return it to me. I will send it to Judge Gregory Woods for a memo endorsement.

If you do not return a signed stipulation to me by 11:00 a.m., Wednesday, December 10, I will write to Judge Woods seeking appropriate relief.

Very truly yours,



PML/
cc (via e-mail w/encl.):
William J. Hine, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re
SOUNDVIEW ELITE LTD., *et al.*

14-CV-8615-GHW

Debtors.

CORINNE BALL, as Chapter 11 Trustee of
SOUNDVIEW ELITE LTD.,

Plaintiff,

STIPULATION

-against-

SOUNDVIEW COMPOSITE LTD.,

Defendant.

IT IS HEREBY STIPULATED AND AGREED:

1. Peter M. Levine shall be and hereby is joined as a party to this appeal.
2. Levine shall have all the rights of the other parties to file a brief and be heard on this appeal.
3. Levine shall file his brief by January 6, 2015, and the Trustee shall file her brief by the same date.
4. The reply brief of appellant Alphonse Fletcher, Jr., shall be filed by January 20, 2015.

Dated: December __, 2014

SHER TREMONTE LLP

By: _____

Robert Knuts
80 Broad Street, Suite 1301
New York, New York 10004
212-202-2638

JONES DAY

By:

William J. Hine
222 East 41st Street
New York, New York 10017
212-326-3684


PETER M. LEVINE (PML-7630)
99 Park Avenue, Suite 330
New York, New York 10016
(212) 599-0009

SO ORDERED:

United States District Judge

From: [Robert Knuts](#)
To: [Peter M. Levine](#)
Cc: [William J Hine \(wjhine@JonesDay.com\)](#)
Subject: Re: Ball v. Soundview Composite / Appeal / 14-cv-8615-GHW
Date: Monday, December 08, 2014 10:53:09 AM

Mr. Levine,

If you wish to seek to intervene in either the underlying adversary proceeding or the appeal from Judge Gerber's September 23, 2014 order, you should seek to do so.

I will not stipulate to such intervention and I reserve all further comment on your letter.

Bob

Robert Knuts | Sher Tremonte LLP | 80 Broad Street, Suite 1301 | New York, New York 10004 |
tel: 212.202.2600 | direct: 212.202.2638 | fax: 212.202.4156 | rknuts@shertremonte.com
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From: "Peter M. Levine" <chief@pmlevinelaw.com>
Date: Monday, December 8, 2014 at 10:46 AM
To: Robert Knuts <rknuts@shertremonte.com>
Cc: "William J Hine (wjhine@JonesDay.com)" <wjhine@JonesDay.com>
Subject: Ball v. Soundview Composite / Appeal / 14-cv-8615-GHW

See attached correspondence with enclosure.

Peter M. Levine
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